

**Petition
to
Correct Information Disseminated
by the
USDA Forest Service**

**Expert Interview Summary for the Black Hills National Forest
Land and Resource Management Plan Amendment**

January 17, 2003

Petition Elements

This Petition (Request for Correction) is a formal request for the correction of information disseminated by the USDA Forest Service, and it is submitted under:

1. Public Law 106-554 § 515
2. OMB Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies
3. USDA's Information Quality Guidelines

Requestor(s) Contact Information

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President / Forester
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Description of Information to Correct

Expert Interview Summary for the Black Hills National Forest

Land and Resource Management Plan Amendment

2000

United States Department of Agriculture

Forest Service

Black Hills National Forest

Custer, South Dakota

The "Expert Interview Summary" is actively disseminated on the Internet at:

http://www.fs.fed.us/r2/blackhills/fp/planning/99Amend/00_10_25_ExpertInterviewSum.pdf.

Provisions of Public Law 106-554 § 515 are applicable to an agency's disseminated information as described in the OMB Quality Guidelines, III.4:

III.4. The Agency's pre-dissemination review, under paragraph III.2, shall apply to information that the agency first disseminates on or after October 1, 2002. The agency's administrative mechanisms, under paragraph III.3, shall apply to information that the agency disseminates on or after October 1, 2001, regardless of when the agency first disseminated the information.

The OMB directive, including dates for adherence, is consistent with congressional intent as embodied in Public Law 106-554 § 515:

- (a) In General.--The Director of the Office of Management and Budget shall, by not later than September 30, 2001, and with public and Federal agency involvement, issue guidelines under sections 3504(d)(1) and 3516 of title 44, United States Code, that provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies in fulfillment of the purposes and provisions of chapter 35 of title 44, United States Code, commonly referred to as the Paperwork Reduction Act.

Because the subject document has been disseminated by the USDA Forest Service on or after October 1, 2001, the document is subject to requests for corrections under Public Law 106-554 § 515.

Explanation of Noncompliance with OMB and/or USDA Information Quality Guidelines.

The "Expert Interview Summary" is, in part, dependent on the presumed quality of

**Management Recommendations for the Northern Goshawk in the
Southwestern United States**

General Technical Report RM-217. 1992.
United States Department of Agriculture
Forest Service
Rocky Mountain Forest and Range Experiment Station
Fort Collins, Colorado

Interviewed experts explicitly referred to, relied on and endorsed GTR-RM-217, in whole or in part, on p. 79:

"Boyce supported basing our management on the Southwest goshawk guidelines (Reynolds et al. 1992) during the interim period. Squires also indicated that the Southwest guidelines might provide valuable guidance regarding the distribution of age classes. The Southwest goshawk guidelines were produced by an independent team and are recognized as an important management approach (Boyce). The Southwest goshawk guidelines have received documented support from The Wildlife Society (Boyce). Also, available prey in the Black Hills is similar to the Southwest, suggesting the Southwest guidelines are quite applicable (Boyce)."

"He also recommended that the process used in developing the Southwest goshawk guidelines (Reynolds et al. 1992) be used to develop management guidelines for the Black Hills (Reynolds)."

The entirety of GTR-RM-217 has been shown to violate Public Law 106-554 § 515, under the guiding information quality provisions of the Office of Management and Budget, and additionally under USDA's Information Quality Guidelines.

Because the "Expert Interview Summary" depends on the presumed high quality of GTR-RM-217, the "Expert Interview Summary" violates OMB Guidelines requiring the maximization of the "quality, objectivity, utility, and integrity of information, including statistical information, disseminated by Federal agencies."

Explanation of the Effect of the Alleged Error

The document cited, referred to and depended upon for presumed quality in the "Expert Interview Summary", GTR-RM-217, places incorrect restrictions on forest and range management, recreation and other uses of U.S. Forest Service lands. These restrictions errantly reduce timber harvests, timber quality, forage utilization, recreational opportunities and forest access. The restrictions severely limit the availability and application of silvicultural tools that improve forest health, timber size and quality, forage production, and that reduce the risks of catastrophic stand-replacing fires. The effect of the errors in GTR-RM-217, and hence its inclusion by citation and reference in the "Expert Interview Summary", is to harm local and regional economies and communities, including the natural resources sector as a whole, and to subsequently cause harm to the requestor.

In addition, GTR-RM-217 promotes the creation of forest conditions that may negatively impact goshawk populations, as evidenced by the biased forest conditions required and recommended in GTR-RM-217. The effect is to harm the requestor's enjoyment of National Forest lands and its amenities. Should goshawk populations indeed decline as a consequence of negative impacts instigated by GTR-RM-217 requirements and recommendations, anticipated and likely additional forest management restrictions will further harm the requestor.

Recommendation and Justification for How the Information Should be Corrected

Requestors recommend that the "Expert Interview Summary" be corrected by expunging from the document all sections reliant on the presumed quality of GTR-RM-217, including references to and endorsements of GTR-RM-217.

The influence of GTR-RM-217 is significant. Many organizations, government agencies, the federal judiciary, private companies and private citizens have relied, and continue to rely, on the high quality that was incorrectly implied to be associated with its contents. To correct the harm already caused, and to prevent further harm, the requestor recommends that the "Expert Interview Summary" be corrected in an expeditious manner.

Supporting Documentary Evidence

This Petition (Request for Correction) has been filed with the Petition (Request for Correction) documenting the information quality violations in GTR-RM-217. Please refer to the GTR-RM-217 Petition for all necessary, additional and supporting documentary evidence.



File Code: 1570

Date: March 21, 2003

Mr. William K. Olson
W.K. Olsen and Associates, L.L. C.
247 Fall Creek Drive
Bellvue, CO 80512

Dear Mr. Olson,

This letter serves to acknowledge receipt of five petitions to correct information disseminated by the Forest Service on the northern goshawk, submitted under (a) Public Law 106-554 §515, (b) OMB Guidelines for Ensuring Maximizing the Quality, Objectivity, Utility, and Integrity of Information by Federal Agencies, and (c) United States Department of Agriculture's Information Quality Guidelines. We acknowledge receipt of your five petitions, dated January 17, 2003, on January 31, 2003:

1. Management Recommendations for the Northern Goshawk in the Southwestern United States, Rocky Mountain Forest and Range Experiment Station, (GTR-RM-217, August 1992)
2. Record of Decision for Amendment of Forest Plans Arizona and New Mexico, Southwestern Region (June 5, 1996)
3. Expert Interview Summary for the Black Hills National Forest Land and Resource Management Plan Amendment, Black Hills National Forest (2000)
4. Black Hills National Forest Phase I Goshawk Analysis, Black Hills National Forest (2000)
5. Conservation Assessment for the Northern Goshawk in Southeast Alaska, Pacific Northwest Research Station (GTR-PNW-387, November 1996)

We are currently in the process of going through the five petitions, but will need additional time to respond more thoroughly to them. It is important that we initially focus on the first petition because it is the basis for the other four petitions (#2-5). It will require a more in-depth technical and legal evaluation. Therefore, you can expect a more in-depth response to your first petition by July 31, 2003. That response will also include a better estimate of response time for the petitions #2-5.



If you should have additional questions please contact Alison Hill, Assistant Director for Research, at 970-226-1980 or ahill01@fs.fed.us.

/s/

Marcia Patton-Mallory
Station Director

AH:cbp

cc:

Station Directors
Regional Foresters
Deputy Chiefs, R&D and NFS



United States
Department of
Agriculture

Forest
Service

Rocky Mountain
Research Station

2150 Centre Avenue
Building A, Suite 376
Fort Collins, CO
80526-1891

File Code: 1390

Date: July 25, 2003

Mr. William K. Olsen
W.K. Olsen & Associates, L.L.C.
247 Falls Creek Drive
Bellvue, CO 80512

Re: Response to Request for Correction Nos. 3001-3005

Dear Mr. Olsen:

We received from you the following five requests for correction on January 31, 2003, under the United States Department of Agriculture (USDA) Information Quality Guidelines and Data Quality Act (DQA) (Public Law 106-554 §515):

- #3001. Management Recommendations for the Northern Goshawk in the Southwestern United States, Rocky Mountain Forest and Range Experiment Station, (GTR-RM-217, August 1992),
- #3002. Black Hills National Forest Phase I Goshawk Analysis, Black Hills National Forest (2000),
- #3003. Expert Interview Summary for the Black Hills National Forest Land and Resource Management Plan Amendment, Black Hills National Forest (2000),
- #3004. Record of Decision for Amendment of Forest Plans Arizona and New Mexico, Southwestern Region (June 5, 1996), and
- #3005. Conservation Assessment for the Northern Goshawk in Southeast Alaska, Pacific Northwest Research Station (GTR-PNW-387, November 1996).

The Forest Service has given your requests for correction careful consideration and your concerns have been thoroughly reviewed. According to USDA Information Quality Guidelines, the review of your request for correction must be based on the explanation and evidence provided in your request. We reviewed: (a) processes that were used to create and disseminate the information, (b) information being challenged, and (c) conformity of the information and those processes with both Office of Management and Budget (OMB) and USDA Information Quality Guidelines.

Processes that were used to create and disseminate the information

RM-217 had substantial internal and external scientific peer reviews prior to publication. It received scrutiny above and beyond what would be termed normal in the scientific peer review process. Prior to publication, the draft manuscript was reviewed by 19 scientists and managers at universities, state wildlife management agencies, USDA Forest Service, Fish and Wildlife



Service, and a natural history museum. These reviewers' comments were reconciled into the final document. In addition to these reviews, RM-217 was orally defended in front of a panel of Rocky Mountain Station scientists. Workings of the Goshawk Scientific Committee were also continually reviewed by a task force made up of private citizens, individuals from non-governmental organizations (e.g., Audubon Society), University of Arizona, New Mexico and Arizona State organizations, Fish and Wildlife Service, industry representatives, and Forest Service managers.

These reviews meet the criteria stated in the USDA Information Quality Guidelines "Objectivity of Scientific Research Information" that require a high quality and objective peer review.

Information being challenged

In our review of the information being challenged in request #3001, we found no significant errors requiring substantive change to RM-217. The review discovered eight errors. None of the errors affected the desired forest conditions or the specific management recommendations. In addition to the seven minor errors revealed in Appendix 3 of your request, RM-217 misquoted a reference on page 14 by stating PFAs vary in size from 300 to 600 acres. The correct range was 84 to 811 acres. The misquote does not change or influence the outcome. The request to retract (withdraw) is denied because no significant errors were found and no substantive changes needed. An errata will be distributed with the publication that corrects these eight errors.

The following requests for correction are denied: the Black Hills National Forest Phase I Goshawk Analysis (#3002), the Expert Interview Summary for the Black Hills National Forest Land and Resource Management Plan Amendment (#3003), the Record of Decision for Amendment of Forest Plans Arizona and New Mexico (#3004), and the Conservation Assessment for the Northern Goshawk in Southeast Alaska (#3005). These requests are denied because the requests use the rationale of errors identified in Petition #3001. Since no significant errors were found in RM-217, no substantive changes are needed; your requests to retract (withdraw) these documents and/or expunge sections of the documents are denied.

Conformity of the information and those processes with both OMB and USDA Information Quality Guidelines

RM-217 conforms to the criteria for quality of information outlined in the Supplemental Guidelines for the Quality of Scientific Research Information Disseminated by USDA Agencies, under the USDA Information Quality Guidelines by:

- providing a clear statement of the research objectives and description of the approaches and methods,
- being the subject of a high quality and objective review,
- having appropriate oversight to ensure sound scientific practices were followed,
- adhering to the Research Misconduct Policy,
- providing research information to the public that is reliable, accurate, and presented clearly, and

- providing an explanation of how the research information was obtained, what it is, the conditions to which it applied, and the limitations or reservations that should be applied in using the information.

RM-217 also follows the procedures for release of scientific information, outlined in the Supplemental Guidelines for the Quality of Scientific Research Information Disseminated by USDA Agencies, by:

- conducting a peer review that meets the standards recommended by OMB,
- subjecting the information to formal, independent external peer review to ensure its objectivity. It is important to also note that the USDA Supplemental Guidelines states that “if the data and analytic results have been subjected to such a review, the information can generally be presumed to be of acceptable objectivity. However, in accordance with the OMB standard, this presumption is rebuttable based on a persuasive showing by a petitioner in a particular instance, although the burden of proof is on the complainant”, and
- conducting an internal review, which for the purpose of establishing transparency, ensures that a report or research product clearly states what the information and data are, on how they were obtained, and reservations or limitations on their use.

Like all Forest Service scientific studies, RM-217 underwent a rigorous scientific peer review prior to publication, following the Forest Service Manual 1600 Chapter 1631.15. This chapter states that “line offices must ensure that authors:

- Solicit written comments from at least two peers competent in the subject matter,
- Solicit statistical review when appropriate, and
- Supply the line or staff officer who is to perform the final review with a revised manuscript, along with review comments and reasons for any rejection of review comments.”

In conclusion, the Forest Service carefully considered the information you provided. However, after full consideration and careful, thorough review we find no substantive merit to your claims. The information you provided does not demonstrate that RM-217 is inconsistent with USDA’s Information Quality Guidelines. The Forest Service denies your claim to retract (withdraw) RM-217. We will release an errata on the eight errors discovered, even though they do not affect the desired forest conditions or the specific management recommendations. Your requests to retract (withdraw) and/or expunge sections of documents (requests #2-5) are also denied based on our RM-217 decision.

You may submit a request for reconsideration if you are dissatisfied with this decision. Details on how to file a request for reconsideration can be found on the USDA website:

http://www.ocio.usda.gov/irm/qi_guide/index/html. The request for reconsideration should reference this letter and follow the “Procedures for Requesting Reconsideration of USDA’s Decision.” Please submit written material to support your case for reconsideration, and a copy of the information originally submitted to support the request for correction, and a copy of this response. Requests for Reconsideration filed after the 45-day deadline may be denied as untimely. All requests for reconsideration must be submitted by overnight delivery service, letter, fax, or email to:

USDA Forest Service
Data Quality Team Leader ORMS Staff
Mail Stop 1150 1S Yates Building
14th & Independence Avenue SW
Washington, DC 20250-1150

Phone (202) 205-2938
FAX (202) 260-6539
Email gcontreras@fs.fed.us

If you should have additional questions please contact Glen Contreras, Data Quality Team Leader, at (202) 205-2938, or e-mail gcontreras@fs.fed.us.

/s/
MARCIA PATTON-MALLORY
Station Director

cc:
Station Directors
Regional Foresters
Deputy Chiefs, R&D and NFS
Data Quality Team Leader
ADRs, RMRS